

HOUSE No. 118

By Mr. Petersen of Marlbehead, petition of Douglas W. Petersen and others for legislation to establish spending limits on all state political campaigns. Election Laws.

The Commonwealth of Massachusetts

PETITION OF:

Douglas W. Petersen	Mathew C. Patrick
Michael E. Festa	Thomas M. Stanley
Patricia D. Jehlen	James B. Eldridge
Peter V. Kocot	John W. Scibak
Timothy J. Toomey, Jr.	Thomas J. O'Brien

In the Year Two Thousand and Five.

AN ACT ESTABLISHING SPENDING LIMITS ON ALL STATE POLITICAL CAMPAIGNS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) The General Court hereby finds that:

2 (1) The continuing unrestrained growth in expenditures on elec-
3 tion campaigns for statewide and state legislative offices in the
4 Commonwealth of Massachusetts is harmful to the democratic
5 process and the integrity of elections and government in Massa-
6 chusetts.

7 (2) Unlimited campaign spending fosters the public perception
8 that candidates and elected officials respond and give access to
9 contributors and special interests who can assist them in raising
10 the necessary campaign funds, in preference to those who make
11 small or no contributions. This perception undermines public
12 confidence in government that is necessary to the proper func-
13 tioning of a democratic system. The importance of fundraising
14 under a system of unlimited campaign spending also undermines
15 the public's belief in the value of the vote.

16 (3) The need for unlimited fundraising deters many potential
17 candidates from seeking office, and leaves many elections effec-
18 tively uncontested, undermining the necessary conditions for a
19 robust public debate of the issues.

20 (4) Because there are no upper limits on candidates' campaign
21 expenditures, candidates and officeholders face pressure to spend
22 inordinate time and attention on fundraising, for fear of being out-
23 spent by an opponent in the campaign funding arms race. The
24 excessive time that must be devoted to fundraising in the absence
25 of spending limits interferes with the ability of officeholders to
26 carry out the duties for which they were elected and the ability of
27 candidates to meet and interact with average voters.

28 (5) In legislative elections in 2002, only one-third of the 200
29 races were contested, and the candidate spending the most money
30 in those elections won election 94% of the time. Moreover, in
31 2002, winners of competitive legislative races outspent their
32 opponents by about 2 to 1. In elections for the six statewide
33 offices in both 1998 and 2002, the candidate spending the most
34 money won election in five of the six contests. Over the past
35 decade, the growth in campaign expenditures in the gubernatorial
36 race has grown over five times the rate of inflation while the
37 growth in spending for House races has grown nearly twice the
38 rate of inflation. There have been very few seriously contested
39 Senate races over the last decade.

40 (6) Limits on campaign expenditures will limit the time spent
41 soliciting contributions, and will reduce the need of elected offi-
42 cials to respond to, and provide special access to, contributors. As
43 a result, candidates will be freed to devote more time and energy
44 to debate of the issues and elected officials will be able to spend
45 more time responding to constituents and to performing their offi-
46 cial duties.

47 (7) Limits on campaign expenditures will encourage direct and
48 small group contact between candidates and the electorate and
49 will encourage the personal involvement of larger number of citi-
50 zens in campaigns, both of which are crucial to public confidence
51 and robust debate of the issues.

52 (8) Limits on campaign expenditures will promote open and
53 robust debate of the issues by allowing more candidates a mean-
54 ingful opportunity to compete for office.

55 (9) The expenditure limits established in this Act will allow
56 sufficient spending for candidates to communicate effectively
57 with the electorate and inform the electorate of their positions on
58 the issues.

59 (b) This act is necessary in order to implement more fully the
60 provisions of Article IX of the Constitution of the Commonwealth
61 of Massachusetts, which declares “All elections ought to be free;
62 and all the inhabitants of this commonwealth, having such qualifi-
63 cations as they shall establish by their frame of government, have
64 an equal right to elect officers, and to be elected, for public
65 employments.”

66 (c) The General Assembly adopts this act to provide restrictions
67 on campaign expenditures and to provide other regulations of con-
68 tributions to and expenditures for election to office in the state.

1 SECTION 2. Chapter fifty-five of the general laws, as
2 appearing in the 2002 official edition, is hereby amended by
3 adding the following definition to section one:

4 “Election cycle”, as applied to a candidate for a particular state
5 office, shall be the period beginning on the thirty-first day
6 following a regular state election for that office and ending on the
7 thirtieth day following the next state election for that office, inclu-
8 sive.

1 SECTION 3. Chapter fifty-five of the general laws, as
2 appearing in the 2002 official edition, is hereby further amended
3 by deleting the following sentence at the end of the first paragraph
4 in section 7:

5 A candidate may make expenditures without limitation for the
6 purpose of his own campaign and may make campaign contribu-
7 tions without limitation for the benefit of the non-elected political
8 committee organized on his behalf.

1 SECTION 4. Chapter fifty-five of the general laws, as
2 appearing in the 2002 official edition, is hereby further amended
3 by inserting, after section 17, the following sections under the
4 heading “Political Expenditures”:

5 Section 17A. Mandatory spending limits for state offices;
6 penalties.

7 (a) In furtherance of the stated legislative findings and objec-
8 tives pertaining to the need for limits on the expenditure of funds
9 on political campaigns, and notwithstanding any general or
10 special law to the contrary, the following campaign expenditure
11 limitations shall apply to the candidates for all elections for the
12 following state offices, regardless of whether the candidate is
13 financing his or her campaign from private contributions, from the
14 candidate's own resources, or from the resources of his or her
15 immediate family.

16 (1) Any candidate for governor shall limit campaign expendi-
17 tures to no more than \$3 million in an election. In any gubernato-
18 rial race in which there is both a primary and a general election,
19 any money spent prior to or on the day of the primary election
20 shall be subject to the limit for the primary election and any
21 money spent between the primary and general elections shall be
22 subject to the limit for the general election.

23 (2) Any candidate for lieutenant governor shall limit campaign
24 expenditures to no more than \$750,000 in an election. In any race
25 in which there is both a primary and a general election for lieu-
26 tenant governor, any money spent prior to or on the day of the pri-
27 mary election shall be subject to the limit for the primary election
28 and any money spent between the primary and general elections
29 shall be subject to the limit for the general election.

30 (3) Any candidate for attorney general or treasurer and receiver
31 general shall limit campaign expenditures to no more than \$1.5
32 million in an election cycle.

33 (4) Any candidate for state secretary or state auditor shall limit
34 campaign expenditures to no more than \$750,000 in an election
35 cycle.

36 (5) Any candidate for state senator shall limit campaign expen-
37 ditures to no more than \$132,000 in any election cycle.

38 (6) Any candidate for state representative shall limit campaign
39 expenditures to no more than \$54,000 in any election cycle.

40 (b) For purposes of this subsection, "base year amount" shall be
41 the expenditure limits prescribed in this section on the date of its
42 passage. Such limits shall be increased on the first day of each
43 election cycle by multiplying the base year amount by the cumula-
44 tive federal consumer price index for the Boston statistical area,
45 calculated by the United States Bureau of Labor Statistics for the

46 preceding January 1, and rounded to the nearest hundred dollar
47 amount, for all years since the date of passage.

48 (c) For purposes of this section and section 17B, the term “elec-
49 tion” means a general, special, or primary election. For purposes
50 of this section, the term “candidate” includes the candidate’s com-
51 mittee.

52 (d) Violations of any provisions of this section or section sev-
53 enteen B shall be imprisonment for not more than one year or by a
54 fine of not more than one thousand dollars, or both.

55 (f) The Office of Campaign and Political Finance may adopt
56 rules necessary to administer the provisions of this section.

57 Section 17B. Accountability for Related Expenditures.

58 (a) A related campaign expenditure made on a candidate’s
59 behalf shall be considered a contribution to the candidate on
60 whose behalf it was made.

61 (b) A related campaign expenditure made on a candidate’s
62 behalf shall be considered an expenditure by the candidate on
63 whose behalf it was made. However, if the expenditure did not
64 exceed \$100.00, the expenditure shall not be considered an expen-
65 diture by the candidate on whose behalf it was made.

66 (c) For the purposes of this section, a “related campaign expen-
67 diture made on the candidate’s behalf” means either of the
68 following:

69 (1) Any expenditure intended to promote the election of a spe-
70 cific candidate or the defeat of an opposing candidate, if intention-
71 ally coordinated with, solicited by or approved by the candidate or
72 the political committee of the candidate benefited by the expendi-
73 ture;

74 (2) Any expenditure intended to promote the election of a
75 group of specific candidates or the defeat of a group of opposing
76 candidates, if intentionally coordinated with, solicited by or
77 approved by the candidates or the political committees of the can-
78 didates benefited by the expenditure. For purposes of subsection
79 a and subsection b of this section, the amount of a “related expen-
80 diture made on the candidate’s behalf,” made on behalf of more
81 than one candidate, shall be the quotient resulting from the divi-
82 sion of the expenditure by the number of candidates on whose
83 behalf it was made.

84 (d) An expenditure shall not be considered a “related campaign
85 expenditure made on the candidate's behalf” if it is an unreim-
86 bursed payment for travel expenses made by a volunteer using his
87 or her own automobile, to the extent that the cumulative value of
88 such activity by such volunteer does not exceed \$200, with
89 respect to any single election. In addition, an expenditure shall
90 not be considered a “related campaign expenditure made on the
91 candidate's behalf” if all of the following apply:

92 (1) The expenditure was made in connection with a campaign
93 event whose purpose was to provide a group of voters with the
94 opportunity to meet the candidate personally.

95 (2) The expenditure was made only for refreshments and
96 related supplies that were consumed at that event.

97 (3) The amount of total expenditures for the event was less than
98 \$200.

99 (e) A candidate may seek a determination that an expenditure is
100 a related expenditure made on behalf of an opposing candidate by
101 filing a petition with the superior court of the county in which
102 either candidate resides. Within 24 hours of the filing of a peti-
103 tion, the court shall schedule the petition for hearing. Except as to
104 cases the court considers of greater importance, proceedings
105 before the superior court, as authorized by this section, and
106 appeals therefrom, take precedence on the docket over all cases
107 and shall be assigned for hearing and trial or for argument at the
108 earliest practicable date and expedited in every way. The findings
109 and determination of the court shall be prima facie evidence in
110 any proceedings brought for violation of this chapter.

111 (f) The Office of Campaign and Political Finance may adopt
112 rules necessary to administer the provisions of this section.

1 SECTION 5. This act shall take effect upon passage.